

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

AUBREY J. NASH, JR.,

No. 2:20-cv-104-KJN (PS)

**Plaintiff,**

## ORDER TO SHOW CAUSE

## **COMMISSIONER OF SOCIAL SECURITY.**

Defendant.

17 On January 16, 2020, the Court granted Plaintiff's motion to proceed in forma pauperis,  
18 and the Clerk of Court electronically served on Plaintiff the Court's IFP order, the summons, and  
19 the scheduling order. (ECF Nos. 3-5.) The Court's scheduling order stated that “[w]ithin 14 days  
20 from the date of this order, Plaintiff shall submit to the United States Marshal an original and five  
21 copies of the completed summons, five copies of the complaint, five copies of the scheduling  
22 order, and a completed USM-285 form, and *shall file a statement with the Court that such*  
23 *documents have been submitted to the United States Marshal;*” (ECF No. 3 at ¶ 3). The United  
24 States Marshal was directed to then serve all process within sixty (60) days. (*Id.* at ¶ 4.) Further,  
25 the scheduling order required that within 90 days, the parties should designate whether they  
26 consent to the magistrate judge's jurisdiction. ECF No. 5 at p. 1; see also 28 U.S.C. § 636(c).

27 The Court's records indicate that Plaintiff failed to file a statement with the Court  
28 indicating that the required documents were submitted to the United States Marshal.

1 Furthermore, the Commissioner has not yet appeared in the action. This strongly suggests that  
2 plaintiff failed to submit the process documents to the United States Marshal in compliance with  
3 the Court's order. Additionally, the docket shows that plaintiff has not yet filed her  
4 consent/decline designation. 28 U.S.C. § 636(c); see also ECF No. 5. Plaintiff is under no  
5 obligation to consent, but a consent/decline designation assists the Court in determining how the  
6 action will be administratively processed.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Within fourteen (14) days of this order, plaintiff shall either:
  - 9 a. Submit the required documents to the USM and the Court regarding service of
  - 10 process and submit a consent/decline designation to the Court, as required by
  - 11 the Court's orders (ECF Nos. 3, 5); or
  - 12 b. If plaintiff concludes she does not wish to pursue the action at this juncture,
  - 13 she may instead file a notice of voluntary dismissal of the action without
  - 14 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).
- 15 2. Failure to respond to this order to show cause by the required deadline will result
- 16 in dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b).

17 Dated: April 1, 2020

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19 KENDALL J. NEWMAN  
20 UNITED STATES MAGISTRATE JUDGE

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